

**REPORT - PLANNING COMMISSION MEETING**  
**January 27, 2005**

**Project Name and Number:** 40990 Grimmer Boulevard General Plan Amendment and Rezoning (PLN2005-00173)

**Applicant:** City of Fremont

**Proposal:** To consider a City-initiated General Plan Amendment and Rezoning application to add a Residential Medium density designation of 18-23 dwelling units per acre to the existing Community Commercial land use designation at 40990 Grimmer Boulevard and rezone the site from Community Commercial (Irvington Overlay) (C-C(I)) to P-2004-92(I) Planned District. This action would continue to allow all existing Community Commercial Irvington Overlay (C-C(I)) zoning provisions as well as mixed use and/or residential development of 18-23 units per acre. The project also includes a text amendment for the previously approved P-2004-00092(I) to add the subject site. The site is approximately 0.50 acres located on the corner of Grimmer Boulevard and Irvington Avenue in the Irvington Planning Area.

**Recommended Action:** Recommend to City Council

**Location:** 40990 Grimmer Boulevard (corner of Grimmer Boulevard and Irvington Avenue)

**Assessor Parcel Number(s):** 525-1054-3

**Area:** 0.50 acres

**Owners:** Samuel N. and Suzanne C. Harrosh Trustees & Joseph L. Harrosh

**Agent of Applicant:** None

**Consultant(s):** None

**Environmental Review:** Reliance on the Draft Mitigated Negative Declaration that was approved for PLN2004-00092 to cover environmental review for this project in accordance to the California Environmental Quality Act (CEQA).

**Existing General Plan:** Community Commercial Irvington Overlay

**Existing Zoning:** Community Commercial Irvington Overlay (C-C(I))

**Existing Land Use:** Restaurant

**Public Hearing Notice:** Public hearing notification is applicable. A total of 54 notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on January 14, 2005. A Public Hearing Notice was delivered to The Argus on January 10, 2005 to be published by January 13, 2005.

**Executive Summary:** In December 2003, the City Council approved the redesignation and rezoning of the Tri-City Sports and Patio World sites as part of the implementation of Programs 18-23 of the Housing Element. It was determined at the time that the proposed General Plan redesignations and rezoning would be consistent with the general concept contemplated by the property owners of the Patio World site and third parties which had expressed an interest in developing the site for residential uses. While it was the intention of the staff and property owners to include the corner property (which contains a restaurant) in the redesignation and rezoning of the Tri-City and Patio World sites, that site was inadvertently excluded from that redesignation and rezoning action.

Staff is therefore recommending that the subject site be redesignated to add a Residential Medium density of 18-23 dwelling units per acre to the existing Community Commercial land use designation and rezone the site from Community Commercial (Irvington Overlay) (C-C(I)) to P-2004-92(I) Planned District consistent with the redesignation and rezoning of the adjacent Tri-City site. This would also require an amendment of P-2004-92(I) to revise the text to include the subject site accordingly. While no specific plans are proposed at this time, it would provide the opportunity for residential or mixed-use development of the site in the future if the property owners so desire.

**Background:** The City is charged by State statute with responsibility for updating its Housing Element. A Housing Element is a planning document (part of the General Plan) that guides the City's housing efforts. The Element not only provides general goals, objectives and policies but also proposes implementation programs to meet the stated goals and objectives. The Housing Element must also address the City's allocation of housing needs prepared by the Association of Bay Area Governments. The Association of Bay Area Governments (ABAG) has determined the 1999-2006 Regional Housing Needs Distribution Allocation for all Bay Area cities and counties, including Fremont. The total housing need for Fremont is 6,708 units (revised to 4,912 based on recent housing production as set forth in the Housing Element). This allocation is based upon ABAG's projections of the City's share of regional job growth and regional household growth during the 1999-2007 period. (The State later extended the period to 2007.)

Existing law requires the State Department of Housing and Community Development (HCD) to evaluate the programs in the housing element for consistency with State law. Those programs include the identification of sites to be made available to encourage the development of a variety of types of housing for all income levels.

On February 12, 2002, the City Council adopted a new Housing Element to replace the previously adopted (May 1991) Element. Council adopted a revised Housing Element on May 13, 2003. On July 17, 2003, HCD informed the City of Fremont that the Housing Element adopted by the City Council on May 13, 2003 was found in compliance with State law. HCD reiterated the need for the City to meet the established timeframes. The City submitted an annual report to HCD on the progress in implementing identified Housing Element programs prior to the October 1, 2004 deadline. The next report will be due on October 1, 2005.

**Project Description:** Staff is in the process of implementing the Housing Element. The property owners of Tri-City and Patio World approached the City of Fremont Office of Housing and Redevelopment staff regarding potential residential development at the Patio World site. As part of staff's implementation of Programs 18-23 of the Housing Element certified in July of 2003, staff determined that redesignating the properties would implement those goals, specifically, Program 21 (Commercial and Industrial Redesignation), Program 22 (Redesignation and Rezoning of Older Shopping Center Sites) and Program 23 (Rezoning Sites to Mixed-Use to Accommodate Affordable Housing Developments). Program 21, Commercial and Industrial Redesignation, identifies a portion of the Tri-City site as a housing development opportunity site as part of this program. Program 23, Rezoning Sites to Mixed-Use to Accommodate Affordable Housing Developments, identifies the Patio World site as a mixed-use development opportunity site. The Housing Element does not identify the Tri-City Sports site as an opportunity site. City of Fremont staff and the property owners agreed to include to redesignate the Tri-City Sports site, which would have included the corner site, for potential future residential development.

However, this subject site, the 0.50 acre property at the corner of Grimmer Blvd. and Irvington Avenue was inadvertently left out of the previous redesignation and rezoning action. Staff is recommending that the subject property be redesignated to add a residential Medium Density of 18-23 dwelling units per acre to the existing Community Commercial land use designation and rezone the site from Community Commercial (Irvington Overlay) (C-C(I)) to P-2004-92(I) Planned District. This is consistent with the aforementioned Programs 21, 22 or 23 and would provide the opportunity for residential development of the site in the future if the property owners so desire.

The specific proposal consists of a General Plan Amendment and Rezoning to add a Residential Medium density designation of 18-23 dwelling units per acre to the existing Community Commercial land use designation at 40990 Grimmer Boulevard and rezone the site from Community Commercial (Irvington Overlay) (C-C(I)) to P-2004-92(I) Planned District. The P-2004-92(I) Planned District was adopted for the Tri-city and Patio World site and allows all existing Community Commercial Irvington Overlay (C-C(I)) zoning provisions as well as mixed use and/or residential development

of 23 to 27 units per acre for the Patio World site and 18-23 units per acre for the Tri-city site. The proposed amendment would add the site at 40990 Grimmer Boulevard to P-2004-92(I) with allowed uses as Community Commercial (Irvington Overlay) (C-C(I)) and residential medium density at 18-23 units per acre.

No changes to existing land uses on the site are being proposed at this time. The property owner may come forward with an application in the future. The proposed redesignation and rezoning provides increased opportunities for future development of new housing within the community to meet City of Fremont Housing Element objectives.

Surrounding land uses include medium density residential dwellings to the east and south on Bay Street, low density residential dwellings to the west across Irvington Avenue, commercial development to the northwest on Grimmer Boulevard, and a cemetery to the south on Chapel Way and Irvington Avenue.

**Analysis:** The proposed redesignation and rezoning are not intended to make the commercial site non-conforming after the redesignation and rezoning are completed. Rather, such redesignation and rezoning are intended to be “additive,” so that new zoning of the parcel increases development opportunities for the site by allowing new residential units. Sites within the Planned District could retain their existing commercial designation, but could also allow mixed-use, where commercial uses would coexist with residential developments. Conversely, it is also possible that the property owners could redevelop these sites solely for higher density residential use.

The current general plan land use designation for the site is Community Commercial. Therefore, a general plan amendment is required in order to provide for uses other than solely commercial on a site. The proposed general plan amendment will result in the site having a commercial and residential designation, as identified in Exhibit “A.”

**General Plan Conformance:** The proposed General Plan Amendment will designate the site to include commercial and residential designations. The following General Plan Goals, Objectives and Policies are applicable to the proposed designations:

- Fundamental Goal F8: *A Diversity of residential, recreational, cultural, employment and shopping opportunities.*
- Land Use Policy 1.20: *Mixed use (residential/commercial) is allowed in Commercial Districts as specified by the zoning regulations for the respective district in order to increase the vitality and activity within commercial districts.*
- Implementation 1: *Develop design and development standards, including residential intensity standards, for mixed –use projects within commercial districts.*
- Land Use Policy 1.9: *To achieve a variety of housing types, the City has designated locations where moderate and higher density development is appropriate. Criteria for the location of higher density housing include access to transit, proximity to commercial areas, proximity to collector or arterial street, and a transition use where maximum flexibility in site design is required. For those areas where higher densities are indicated on the General Plan Diagram, construction of housing at significantly lower densities than planned would not meet the City’s goals. The City therefore established a minimum required density of development for all medium and high density residential uses as follows:*
- *When the residential range is between 6.5 and 70 units per acre (ranges 8 – 15), and a development application has not been deemed completed for processing under the provisions of the Permit Streamlining Act by July 1, 2003, the minimum density of the project must be at the midpoint of the density range.*
  - *When calculation of the midpoint density results in a fraction of a unit equating to 0.50 or more, the minimum density shall be rounded up to the next whole number.*

*Reduction in the midpoint density may be approved when environmental constraints or historic preservation goals preclude achievement of the midpoint density.*

*If the property proposed for development contains a Primary Historic Resource, or is listed on the State or National Register of Historic Places, or is determined by the City Council through recommendation from HARB to possess historic significance then minimum density may be waived.*

Housing Program Strategy  
Implementation 21:

*Commercial and Industrial Redesignation: The City will actively solicit property owners and developers interested in redesignation of commercial and/or industrial lands on the easterly side of Interstate 880 for residential use. From the identified candidate sites, the City Council will determine the suitability of sites for conversion in accordance with other General Plan goals, objectives and policies in order to meet the objectives. Properties to be converted will be rezoned to the R-3 (Multiple-family residential) or P (Planned) districts at densities ranging from 5 to 50 units/acre to accommodate a total of 753 units. Based on staff's knowledge of these sites and of their ownership, these objectives can be achieved. If necessary, the City will act on reclassification and rezoning of lands on its own initiative. Where PD (Planned Development) zoning is utilized, the PD zoning established by the City Council will: 1) specify the uses allowed on the particular property, 2) establish a density range that is allowed by right, and 3) prescribe that the process for subsequent review of a project will require only Site Plan and Architectural Review by the Planning Commission in lieu of the requirement for adoption of an Ordinance adopting a Precise Plan.*

Housing Program Strategy  
Implementation 22:

*Commercial Redesignation: Older Shopping Center/Central Business District (CBD): Older Shopping Centers and portions of the CBD, identified as the CBD Concept Plan, should be considered as opportunity sites for housing. The City has several older shopping centers that are no longer attractive or vibrant commercial areas. These sites could be redeveloped into new housing developments or as mixed-use villages. The sites are likely to redevelop in the time frame of this Housing Element, particularly given the strong demand for housing and the incentive given to owners by City sponsored rezoning to accommodate units or mixed-use development opportunities. Many of these sites are also within the City's Redevelopment areas where the City can provide assistance. In addition, the Central Business District contains several sites that could accommodate housing units. Where PD (Planned Development) zoning is utilized, the PD zoning established by the City Council will: 1) specify the uses allowed on the particular property, 2) establish a density range that is allowed by right, and 3) prescribe that the process for subsequent review of a project will require only Site Plan and Architectural Review by the Planning Commission in lieu of the requirement for adoption of an Ordinance adopting a Precise Plan. The redesignation of such sites would be in addition to those sites referenced in the Commercial Redesignation Program 21. Sites sufficient to meet program needs are identified in Appendix E.*

Housing Program  
Strategy  
Implementation 23:

*Rezone Sites to Mixed-Use to Accommodate Affordable Housing Developments: The City will rezone several parcels with commercial designations to encourage additional mixed-use residential development that incorporates affordable housing units. Where PD (Planned Development) zoning is utilized, the PD zoning established by the City Council will: 1) specify the uses allowed on the particular property, 2) establish a density range that is allowed by right, and 3) prescribe that the process for subsequent review of a project will require only Site Plan and Architectural Review by the Planning Commission in lieu of the requirement for adoption of an Ordinance adopting a Precise Plan.*

The proposed General Plan amendment to allow mixed-use or residential development, in addition to existing commercial uses, on the site are consistent with these land use policies and implementation strategies because redesignation of sites will allow increased opportunities for the production of moderate density housing where appropriate, will accommodate mixed-use development with residential uses at the minimum established mid-point density range, and will implement key Housing Program Strategies that are intended to facilitate the production of new housing in the City of Fremont.

**Zoning Regulations:** The site is currently zoned Community Commercial Irvington Overlay District. Future development on this site, as provided for in the Planned District P-2004-92(I), will be based upon the development standards for a Community Commercial Irvington Overlay zoning district, and the R-3 zoning district.

**Planned District Analysis:** In accordance with the Housing Element, the site is proposed to be rezoned to Planned District. A Planned District zoning (P-2004-92(I)) was applied to the Tri-City and Patio World site which (1) specifies the uses allowed on the site; (2) establishes a density range that is allowed by right; and (3) prescribes that the process for subsequent review of a project will require only Site Plan and Architectural Review by the Planning Commission in lieu of the requirement for approval of a Precise Plan by ordinance. Staff is recommending that the same Planned District be applied to this site and that it be amended to include the site at 40990 Grimmer in the District with allowed uses as permitted in the Community Commercial District and residential Medium Density 18 – 23 units per acre land use designation. The proposed amendments of P-2004-92(I) to add the site at 40990 Grimmer Blvd. are shown in bold/underline in Exhibit “C” (attached). As required by the Housing Element, residential developments must achieve, at minimum, the mid-point density within the established density range for the site.

Section 8-21811(i) of the Zoning Ordinance requires certain findings for City-initiated P districts. This section states that after a public hearing the City Council may establish a P district provided that the Council finds the following:

- (1) The property is designated in the General Plan as having a relatively unique feature, and because of the need for specific design to achieve the objectives of such special General Plan designation, the property can best be established as a P district; or,
- (2) The uniqueness of the size, shape, topography of the property or its relationship to adjacent parcels, historical character or landscaping features is such that the property can best be developed as a P district.

Staff believes both findings can be made for the proposed amended Planned District. The designation of the site within existing commercial centers to allow mixed-use and/or residential uses and their location at key intersections warrants special design treatment to achieve the objectives of a Planned District.

- **Irvington Concept Plan Analysis:** The subject site is located within the Irvington Planning Area. The City of Fremont is in the process of finalizing the Draft Irvington Concept Plan which is tentatively scheduled for City Council approval on January 25, 2005. The Concept Plan is currently being refined to address concerns from the community. The proposed Planned District (P-2004-92(I), as amended) requires that future development of the parcels within this district be consistent with the “Vision” established by the Concept Plan for this site.
- **Redevelopment:** The subject site is within the Irvington Redevelopment Area. The proposed project is consistent with the Redevelopment Plan because the proposed General Plan Amendment and rezoning will set a framework for future redevelopment on these parcels. This framework will take into consideration the existing conditions and uses of the area. Further, the redesignations and rezoning will provide a framework for appropriate new businesses and residential development in coordination with Citywide economic development and affordable housing programs.

**Environmental Analysis:** An Initial Study and Draft Mitigated Negative Declaration were adopted for PLN2004-00092 which included the redesignation of the subject site at the prescribed densities and land uses proposed herein. Therefore, staff recommends that Mitigated Negative Declaration be relied upon for this project. The Certificate of Fee Exemption allows the project to be exempted from the review fee and environmental review by the California Department of Fish and Game.

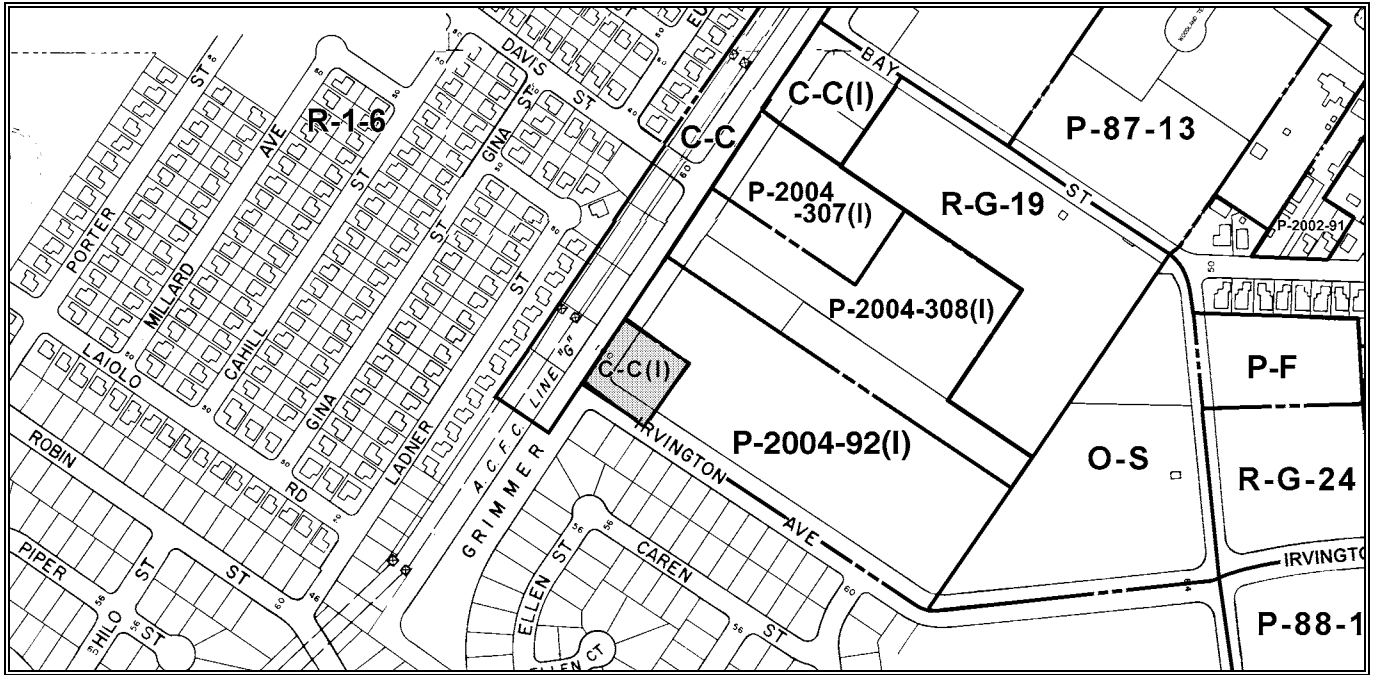
**Exhibits:**      Exhibit "A"      General Plan Exhibit  
                 Exhibit "B"      Zoning Exhibit  
                 Exhibit "C"      Planned District Exhibit

**Enclosures:**   Exhibit "A"      General Plan Exhibit  
                 Exhibit "B"      Zoning Exhibit  
                 Exhibit "C"      Planned District Exhibit  
                 Initial Study and Mitigated Negative Declaration

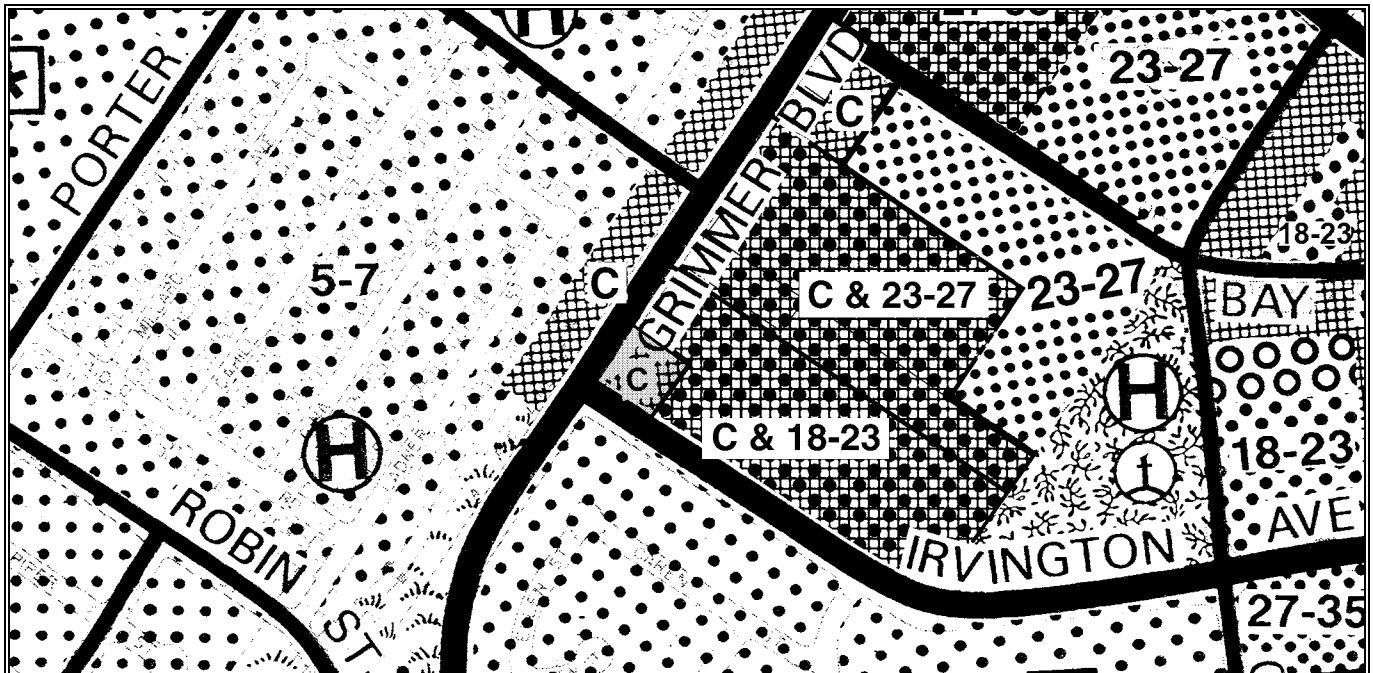
**Recommended Actions:**

1.      Hold public hearing.
2.      Recommend that, based on the information available to date, the City Council find the initial study that was prepared for PLN2004-00092 covers the subject site and has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any additional or potential for adverse effect on wildlife resources.
3.      Recommend that the City Council rely upon the Mitigated Negative Declaration that was prepared for PLN2004-00092 and find it reflects the independent judgment of the City of Fremont.
4.      Find that General Plan Amendment and Planned District Rezoning (P-2004-92(I), as amended) are in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use and Housing Element Chapters as enumerated within the staff report.
5.      Find that the existing commercial site has relatively unique features and that its designation for mixed-use and/or residential developments requires specific design considerations to achieve these objectives; and are identified in the Housing Element such that the properties can best be developed as P districts.
6.      Recommend that the City Council approve PLN2005-00173 to amend the General Plan land use diagram to designate the subject site with additional residential land use designation, and rezone it to Planned District (P-2004-92(I)) in conformance with Exhibits "A", "B", and "C." (General Plan Amendment, Rezoning Exhibit and Planned District Exhibit).

Existing Zoning  
Shaded Area represents the Project Site



Existing General Plan



# EXHIBIT “A”

Attached to and made a part of

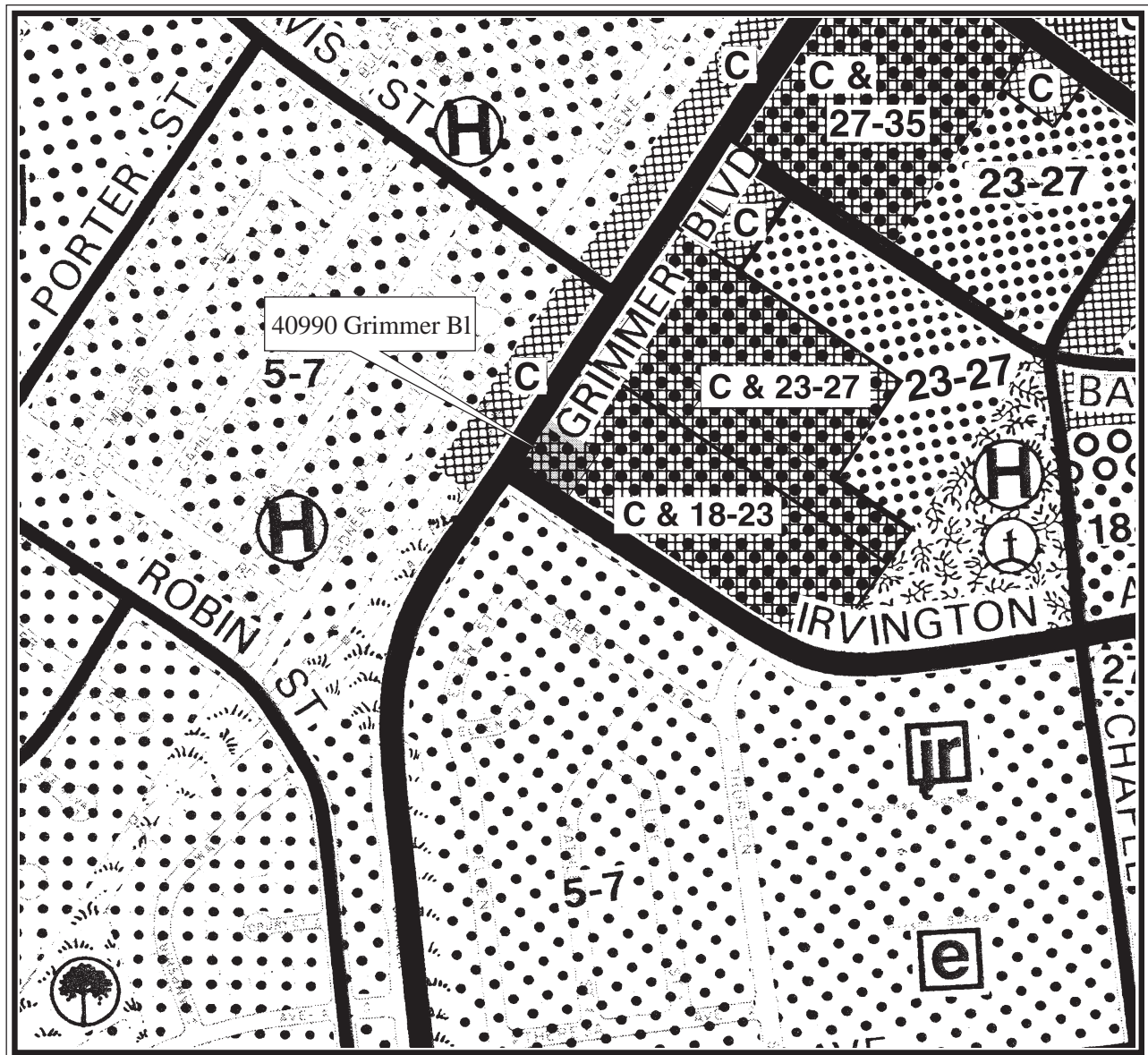
**Resolution No.** \_\_\_\_\_

adopted by the City Council of the City of Fremont, California

**On the** \_\_\_\_\_ **day of** \_\_\_\_\_, **20** 05 .

## GENERAL PLAN LAND USE DIAGRAM (SECTION)

AFFECTS LAND USE DIAGRAM(S) FOR THE IRVINGTON PLANNING AREA



**From:** Community Commercial

**To:** Community Commercial & Residential, Med 18-23 du/ac

**Project Name:** Grimmer General Plan Amendment and Rezoning

**Project Number:** PLN2005-00173 (gpa)

[pc on 01-27-2005] 72-376, 72-380

*DMC*



# EXHIBIT "B"

Attached to and made a part of

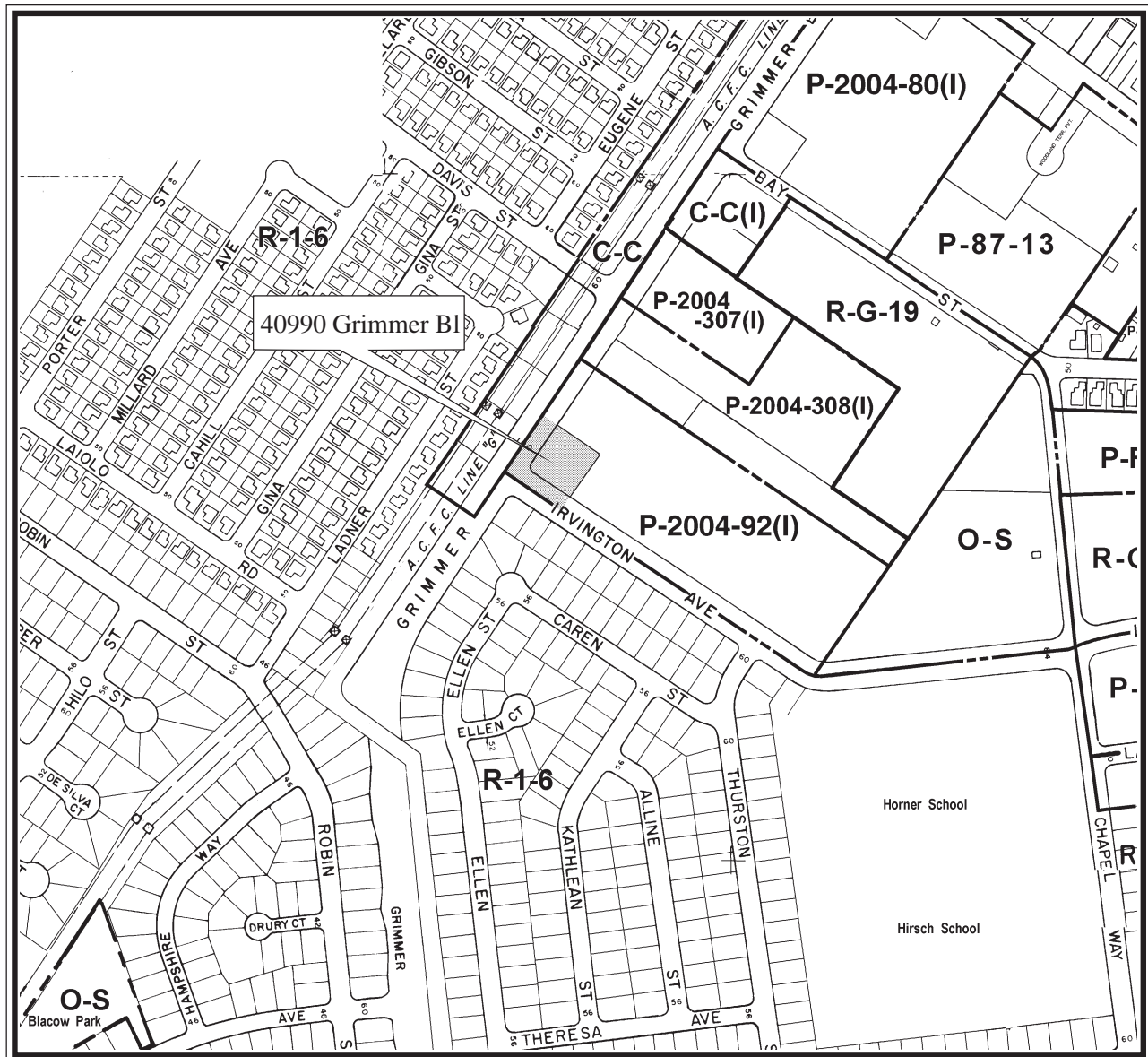
**Ordinance No.** \_\_\_\_\_

adopted by the City Council of the City of Fremont, California

**On the** \_\_\_\_\_ **day of** \_\_\_\_\_, **20** 05.

## ZONING MAP (SECTION)

AFFECTS ZONING MAP(S) FOR THE IRVINGTON PLANNING AREA



[pc on 01-27-2005] 72-376, 72-380

**From: C-C(I)**

**To: P-2004-92(I)**

**Project Name:** Grimmer General Plan Amendment and Rezoning

**Project Number:** PLN2005-00173 (rez)

*DWK*

## **Exhibit “C”**

### **Tri-City Sports and Patio World Planned District (40800, 40900 and 40990 Grimmer Boulevard) (P-2004-92(I) as amended per P-2005-00173)**

**Purpose:** To facilitate the development of approximately 16.6 acres located at 40800, 40900 and 40990 Grimmer Boulevard in the Irvington Planning Area by allowing the development of commercial, mixed-use and/or residential development in accordance with the “Vision” established by the Irvington Concept Plan (See Exhibit B-3, attached).

**Allowed Uses:** Allowed commercial uses are those listed in Community Commercial Irvington Overlay (C-C(I)) Zoning District. In addition, mixed use and/or residential units are allowed at a density of 23 to 27 units per acre and in accordance with the R-3-27 Multi-Family Residence Development Standards for the 40800 Grimmer Boulevard site and at a density of 18-23 units per acre and in accordance with the R-3-23 Multi-Family Residence Development Standards for the 40900 and 40990 Grimmer Boulevard site. Mixed-use development is strongly encouraged in order to consider the needs of the community and the neighborhood in preserving commercial uses and economic vitality.

Preferred uses are those that result in the development of community commercial and residential uses at a range of 25-27 (40800 Grimmer Boulevard) or 20.5-23 (40900 and 40990 Grimmer Boulevard) units per acre and/ or mixed-use development. Uses to avoid are those that would result in nuisances to residences.

All subsequent uses shall be processed in the normal fashion for a Permitted Zoning Administrator or Conditional Use in the Community Commercial Irvington (C-C(I)) Overlay and R-3-27 and R-3-23 Multi-Family Residence Districts.

#### **Site Plan and Architectural Review:**

All new residential and/or mixed-use construction shall be processed through Site Plan and Architectural Review by the Planning Commission. Review shall consider the architecture and site design in relation to the surrounding area, and shall take into account site access and impacts to adjacent residential and commercial uses. In addition to the Standards for Approval listed under Section 8-22706 of the Fremont Municipal Code for Site Plan and Architectural Review, the approving body must also make the following findings:

1. The proposed architecture is superior quality and will enhance the visual qualities and complement the character of the area and be an attractive feature for Fremont and the Irvington Planning Area.
2. The proposed development implements the “Vision” identified in the Irvington Concept Plan, as adopted.
3. The site plan has provided for pedestrian connections to nearby features.
4. Driveways and parking spaces are located, to the degree feasible, away from the corner of Fremont Boulevard and Grimmer Boulevard, and Grimmer Boulevard and Bay Street.
5. Access is provided so as to minimize impacts to adjacent thoroughfares.

#### **Site Plan and Architectural Review (continued):**

All other types of construction shall be reviewed by the City's Development Organization in accordance with Section 8-22706 of the Municipal Code.

**Building and  
Site Standards:**

Building and site standards shall be referenced in the Neighborhood Commercial Zoning (C-N) District, Section 8-21005 and the R-3 Multi-Family Residence District Standards, Section 8-2756, of the Fremont Zoning Ordinance. Exceptions to these standards may be permitted subject to the review and approval of the Planning Commission and/or City Council.

**Other  
Regulations  
that may be  
Applicable:**

As referenced in the Community Commercial (C-C) Zoning District, Section 8-21106 and R-3 Multi-Family Residence Zoning District, Section 8-8-2757 of the Zoning District.